

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

JOHN EVANS
Petitioner,

v.) Civil Action No. 04-10323-RWZ

PAUL VERDINI
Respondent.

ANSWER

Pursuant to Rule 5 of the Rules Governing Section 2254 Cases in the United States District Courts, the respondent hereby answers the petition for writ of habeas corpus of the petitioner John Evans.

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted.
5. Admitted.
6. Admitted.
7. Admitted.
8. Admitted.
- 9(e)-(f) Admitted.
10. Admitted.
- 11(a)(1)-(2). Admitted.
- 11(a)(3). Admittted, except as to claim 8, which was not presented in the petitioner's

motion for new trial.

11(a)(4)-(6). Admitted.

11(b)-(c). Admitted.

12. The respondent states that paragraph 12 contains legal argument and conclusions to which no response is required. To the extent that a response is deemed necessary, the respondent denies the factual allegations contained in paragraph 12 of the petition insofar as they are inconsistent with the facts found by the Massachusetts Supreme Judicial Court in *Commonwealth v. Evans*, 439 Mass. 184, 786 N.E.2d 375 (2003).

13. Admitted.

14. The respondent states that he lacks knowledge or information sufficient to admit or deny the allegations contained in paragraph 14.

15(a)-(g). Admitted.

16. Admitted.

17. The respondent lacks the knowledge or information sufficient to admit or deny the allegations contained in paragraph 17.

And further answering the respondent has obtained transcripts from the petitioner's trial which will be supplied to the Court whenever deemed necessary. Pursuant to Rule 5 of the Rules Governing 28 U.S.C. §2254 cases, the respondent is filing a Supplemental Answer with the following documents from the petitioner's state court proceedings:

1. Docket, *Commonwealth v. John Evans*, Suffolk County Superior Court Criminal Indictment No. 1995-10190.
2. Brief for Appellant on Appeal to the Massachusetts Supreme Judicial Court (07602).

3. Brief and Record Appendix for the Commonwealth of Massachusetts on Appeal to the Massachusetts Supreme Judicial Court (07602).
4. Reply brief of appellant.
5. *Commonwealth v. Evans*, 439 Mass. 184, 786 N.E.2d 375 (2003).

DEFENSES

1. The petition fails to state a claim upon which habeas corpus relief can be granted.
2. In the alternative, the state court adjudication of the petitioner's claims was not contrary to nor an unreasonable application of clearly established Supreme Court law nor was it based on an unreasonable determination of the facts in light of the evidence presented in the state court proceeding.

The respondent respectfully reserves the right to amend or supplement this Answer in the future should the need arise.

Respectfully submitted,

THOMAS F. REILLY
ATTORNEY GENERAL

/s Susanne G. Reardon

March 22, 2004

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